

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DOCKET NO. 05-111547RWZ

LAUREN VARALLO
Plaintiff,

v.

TOWN OF NANTUCKET POLICE
DEPARTMENT and JAMES SAMSON,
Defendant,

**DEFENDANT, TOWN OF NANTUCKET'S ANSWER AND JURY CLAIM
TO DEFENDANT, JAMES SAMPSON'S CROSS CLAIM**

The defendant, Town of Nantucket answers the co-defendant Sampson's cross claims as follows:

1. The defendant neither admits nor denies the allegations contained in paragraph 1 as same are a statement of introduction. To the extent that factual allegations are asserted therein, the defendant denies same.
2. The defendant admits the allegations contained in paragraph 2.

Count I

3. The defendant admits the allegations contained in paragraph 3.
4. The defendant admits that the defendant Sampson was directed to an assignment at the hospital referenced in the plaintiff's complaint.
5. The defendant denies the allegations contained in paragraph 5.
6. The defendant denies the allegations contained in paragraph 6.
7. The defendant denies the allegations contained in paragraph 7.
8. The defendant denies the allegations contained in paragraph 8.
9. The defendant denies the allegations contained in paragraph 9.
10. The defendant admits that allegations were made by the plaintiff against the defendant,

plaintiff in cross claim.

11. The defendant denies the allegations contained in paragraph 11.
12. The defendant denies the allegations contained in paragraph 12.

Count II

13. The defendant reasserts its responses in paragraphs 1-12 as if specifically restated herein.
14. The defendant denies the allegations contained in paragraph 14.
15. The defendant denies the allegations contained in paragraph 15.
16. The defendant denies the allegations contained in paragraph 16.

Count III

17. The defendant reasserts its responses in paragraphs 1-16 as if specifically restated herein.
18. The defendant denies the allegations contained in paragraph 18.
19. The defendant denies the allegations contained in paragraph 19.

Wherefore, the defendant demands judgement in its favor together with costs and attorneys fees.

DEMAND FOR JURY TRIAL

The defendant requests a trial by jury on all counts.

AFFIRMATIVE DEFENSES

First

The defendant, plaintiff in cross claim has failed to state a claim for which relief may be granted.

Second

The defendant, plaintiff in cross claim engaged in intentional criminal conduct which conduct was the cause of the plaintiff's damages.

Third

The defendant Town cannot be held liable for the intervening intentional criminal conduct of the defendant, plaintiff in cross claim, Sampson.

Fourth

Any injuries or damages allegedly sustained by the plaintiff were caused by the criminal

actions of a third party for whom the defendant is not responsible.

Fifth

The defendant, plaintiff in cross claim has failed to comply with the statutory notice of claim as a prerequisite to the commencement of suit.

Defendant, TOWN OF NANTUCKET,
By its attorney,

/s/ Douglas I. Louison
Douglas I. Louison (BBO # 545191)
MERRICK, LOUISON & COSTELLO
67 Batterymarch Street
Boston, MA 02110
(617) 439-0305

CERTIFICATE OF SERVICE

I, Douglas I. Louison, hereby certify that on the 19th day of December, 2005, I served the foregoing by causing a copy to be mailed, postage prepaid, directed to **Bradley Henry, Esquire**, Meehan, Boyle, Black & Fitzgerald, PC, Two Center Plaza, Suite 600, Boston, MA 02108 and **Philip Slotnick, Esquire**, Shocket & Dockser, LLP 6 Huron Drive, PO Box 2219, Natick, MA 01760.

/s/ Douglas I. Louison
Douglas I. Louison